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<p>1. Article Addressed to:</p> <p>Mr. Randy Jansen President Peñuelas Valley Landfill, LLC P.O. Box 918, Punta Santiago Puerto Rico 00741-0918</p>		<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>2. Article Number</p> <p>7015 0920 0000 8688 2947</p>		<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p>	

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	Puerto Rico 00741-0918



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II, SUITE 7000
GUAYNABO, PUERTO RICO 00968-8069

030217

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Randy Jansen
President
Peñuelas Valley Landfill, LLC
P. O. Box 918, Punta Santiago
Puerto Rico 00741-0918

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act
Peñuelas Valley Landfill
CEPD-CWA-02-IR-2017-002**

Dear Mr. Jansen:

This letter serves to request information as a result of the Compliance Evaluation Inspection ("Inspection") conducted on August 10, 2016, and further investigations performed by Jaime López, Enforcement Officer ("EPA Inspector"), of the United States Environmental Protection Agency's ("EPA") Caribbean Environmental Protection Division ("CEPD"). The Inspection was performed at the Peñuelas Valley Landfill ("Landfill" or "Facility"), which is located at Road PR-385, Km .4.5, Tallaboa Ward, Peñuelas, Puerto Rico.

Background

On August 10, 2016, the EPA Inspector performed the Inspection of the Landfill to determine compliance with Sections 301(a), 308(a) and 402(p) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1311(a), 1318(a) and 1342(p). During the course of the Inspection and further investigation, EPA learned that a new industrial waste disposal cell ("New Cell") was constructed at the Landfill on or about 2014.

During the preparation of the Inspection Report, EPA officials reviewed the National Storm Water Notice of Intent Processing Center database, the Integrated Compliance Information System database and the Enforcement and Compliance History Online database.¹ The EPA officials found that neither Peñuelas Valley Landfill, LLC ("PVL") nor any other entity submitted a Notice of Intent ("NOI") to seek coverage under the National Pollutant Discharge Elimination System

¹ The National Storm Water Notice of Intent Processing Center database is found at <https://ofmpub.epa.gov/apex/aps/f?p=LANDING:HOME:.....#>. The Enforcement and Compliance History Online database is found at <https://echo.epa.gov/>. The Integrated Compliance Information System database is an EPA secured database for the sole use of authorized EPA officials.

("NPDES") Storm Water General Permit for Discharges from Large and Small Construction Activities" ("Permit") for the construction of the New Cell at the Landfill.

Statutory and Regulatory Provisions, and NPDES Permitting

Section 301(a) of the CWA provides in part that except as in compliance with Section 402 of the CWA, the discharge of any pollutant by any person shall be unlawful. Section 402(p) of the CWA requires a NPDES permit with respect to a storm water discharge associated with industrial activity. Pursuant to the NPDES regulations at 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(b)(14)(x), operators are required to obtain a NPDES permit for storm water discharges associated with construction activity. Storm water associated with construction activity means the discharge of storm water from construction activities including clearing, grading and excavation that result in land disturbance of equal to or greater than 5 acres.

On February 16, 2012, EPA re-issued the Permit. The Permit became effective on February 16, 2012, and expired on February 16, 2017. The Permit established among others, Notice of Intent ("NOI" or "eNOI") requirements, development of a Storm Water Pollution Prevention Plan ("SWPPP"), performance of inspections, completion of inspection reports, and included other conditions and requirements.

Part 1.4 of the 2012 CGP indicated that the operator seeking coverage under the Permit must submit to EPA a complete and accurate NOI prior to commencing construction activities. Part 1.4.2 and Table 1 of the Permit required operators of new projects to file a NOI to obtain coverage under the Permit at least fourteen days (14) days prior to commencing earth disturbing activities. Part 1.11.1 of the Permit indicated that the NOI must be signed by a responsible corporate officer in the case of a corporation. Parts 1.4 and 7.1.1 of the Permit required operators associated with a construction project to be covered under the Permit to develop a SWPPP prior to submitting an NOI for coverage under the Permit.

Request for Information ("RFI")

As a result of the findings of the Inspection, EPA issues this Request for Information ("RFI") to PVL pursuant to the authority vested in the Administrator of EPA by Section 308(a) of the CWA, 33 U.S.C. § 1318(a). This authority has been duly delegated to the Regional Administrator of Region 2, EPA, and since further re-delegated to the Director, Caribbean Environmental Protection Division. The purpose of this RFI is to require PVL to submit information to EPA regarding the construction of the New Cell at the Landfill. The information requested below will be used to determine compliance with Sections 301(a), 308(a), and 402(p) of the CWA §§ 1311(a), 1318(a), and 1342(p).

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person is in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the

compliance status of any facility and its related appurtenances. In this instance, the facility being assessed is the Landfill.

RFI – Instructions

In responding to this Request for Information, apply the following instructions, definitions and information:

- a. The signatory should be an officer or agent who is authorized to respond on behalf of PVL pursuant to the signatory requirements regulations codified at 40 C.F.R. § 122.22.
- b. A complete separate response must be made to each individual question in this Request for Information. Identify each answer with the number of the question to which it is addressed and precede each answer with the question to which it is addressed.
- c. Interpret "and" as well as "or" to include within the scope of the question as much information as possible. If two interpretations of a question are possible, use the one that provides more information.
- d. In preparing your response to each question, consult with all present and former employees, agents and/or contractors whom you have reason to believe may be familiar with the matter to which the question pertains, regardless of whether the source is in your immediate possession.
- e. In answering each question, identify all contributing sources of information.
- f. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
- g. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.
- h. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the question to which it applies. If a document is requested but is not available, state the reason for its unavailability.
- i. For the definition of "Water of the United States" and "Point Source", see 40 C.F.R. § 122.2.

- j. When referring to the construction of the New Cell, PVL shall include all those activities that involved earth movement activities within the landfill property and its access roads.

RFI – Documents and Information Requested

Pursuant to Section 308(a) of the CWA, a written response to the information requested below shall be sent to EPA:

1. a detailed description of the property where the construction activities for the New Cell took place, and a copy of the property deed;
2. the name of the owner or owners of the property where the New Cell was constructed, their addresses, phone numbers and officers;
3. the names of the corporations, businesses or individuals that were engaged in developing the New Cell. Include the names of the officers, executive directors and agents, their addresses and phone numbers;
4. the names of all contractors, past and present that engaged in clearing, grading and/or excavation activities during the construction of the New Cell. Include a description of their activities at during the construction of the New Cell, and the addresses, phone numbers and officers;
5. a copy of the construction contract between the development companies and construction companies engaged in the construction of the New Cell;
6. a detailed description of the construction of the New Cell;
7. indicate the exact date when earth movement activities began for the construction of the New Cell;
8. indicate the construction completion date of the New Cell;
9. indicate the acres of soil that were disturbed during the construction of the New Cell;
10. indicate the date when the New Cell became operational;
11. indicate the date when the operator(s) of the landfill initiated the operation of the New Cell;
12. a copy of all storm sewers or storm water collection system drawings and specifications for the Landfill prior and after the construction of the New Cell;
13. color copy of all available aerial photographs taken during the construction of the New Cell;

14. the approximate number of construction employee of the companies involved in the construction of the New Cell;
15. a detailed description of how storm water was managed and disposed during the construction of the New Cell, and how it is managed and disposed currently.
16. provide a copy of all Hydrologic and Hydrology studies prepared for the Landfill and for the construction of the New Cell;
17. provide a detailed explanation of the storm water runoff path after leaving the New Cell construction premises, and the receiving waters which receive the discharges from the Landfill and the construction of the New Cell;
18. indicate in a site map, the areas of the Landfill impacted by the construction of the New Cell, the areas in which final stabilization was applied, and the areas pending final stabilization. Also, indicate the materials used for soil stabilization during and after the construction of the New Cell. In response to this request, refer to Appendix A of the Permit for the definition of final stabilization;
19. a copy of the NOI(s) that the owner/operator of the Landfill filed for the construction of the New Cell;²
20. a copy of the NOI(s) that the construction company(ies) / construction operator(s) filed for the construction of the New Cell;
21. a copy of the SWPPP(s) developed for the construction of the New Cell, including a legible site plan. In response to this request, refer to Part 7 of the Permit; and
22. a copy of all site inspection reports that were prepared during the construction of the New Cell. In response to this request, refer to Part 4.1 of the Permit.

RFI – Time and Delivery of Documents and Information

The response to this RFI shall be postmarked or received at EPA within fifteen (15) calendar days of receipt of this letter, and should be mailed to the following address:

Team Leader
 Clean Water Act Team
 Multimedia Permits and Compliance Branch
 Caribbean Environmental Protection Division
 U.S. Environmental Protection Agency, Region 2
 City View Plaza II - Suite 7000
 #48, PR-165, Km 1.2
 Guaynabo, Puerto Rico 00968-8069

² See Appendix A of the Permit for the definition of "operator".

Your response shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to comply in all respects with this Request for Information within the time specified above may result in the initiation of an enforcement action under Section 309 of the Act, 33 U.S.C. §1319, under which injunctive relief and penalties may be sought. Such an enforcement action may include the assessment of penalties of up to \$52,414 per day for each day of continued non-compliance.

Please be advised that you are under a continuing obligation to supplement the response if information not known or not available to you as of the date of submission of your response should later become known or available to you. In this instance, you must supplement your response to EPA within five (5) business days.

If at any time in the future you obtain or become aware of additional information or find that any portion of the submitted information is false, misleading or misrepresents the truth, you must notify EPA of this fact immediately and provide a corrected response within five (5) business days. If any part of the response is found to be untrue, you may be subject to criminal prosecution.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520. You may, if you so desire, assert a business confidentiality claim covering all or part of the information requested by this letter. A business confidentiality claim may be asserted by placing on (or attaching to) the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by EPA only in accordance with and by means of procedures set forth in Sub-part B, 40 C.R. Part 2.

If no such claim accompanies the information contained in the response to the attached Request for Information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above-cited statutory and regulatory provisions carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by you. If you desire confidential treatment of information only until a certain date or until the occurrence of a certain event, your response should state so.

If you have any questions concerning this request, please contact Mr. Jaime Lopez at (787) 977-5851, or through electronic mail at "lopez.jaime@epa.gov."

We urge your prompt attention to this matter.

Sincerely,



Carmen R. Guerrero-Pérez
Director
Caribbean Environmental Protection Division

cc: Ángel Meléndez, EQB (via e/mail)



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
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 Caribbean Environmental Protection Division
 U.S. Environmental Protection Agency, Region 2
 City View Plaza II - Suite 7000
 #48, PR-165, Km 1.2
 Guaynabo, Puerto Rico 00968-8069

² See Appendix A of the Permit for the definition of "operator".

Your response shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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If you have any questions concerning this request, please contact Mr. Jaime Lopez at (787) 977-5851, or through electronic mail at "lopez.jaime@epa.gov."

We urge your prompt attention to this matter.

Sincerely,



Carmen R. Guerrero-Pérez
Director
Caribbean Environmental Protection Division

cc: Ángel Meléndez, EQB (via e/mail)

